

**Attacks on the Palliative Care and Hospice Education and Training Act: A Response**

The Palliative Care and Hospice Education and Training Act or PCHETA (S. 2080) has won the support of many organizations vigorously opposed to assisted suicide and euthanasia, including the U.S. Conference of Catholic Bishops and the Catholic Health Association of the United States.[[1]](#footnote-1) But a few organizations that oppose euthanasia have decided to oppose the Act, citing past abuses in hospice care in the U.S. The points raised against the Act in an action alert sent out by the Healthcare Advocacy Leadership Organization (HALO), seem based on confusions and misinformation about this field of medicine and the Act itself. The alert raises two “red flags” and includes talking points against the Act provided by the Euthanasia Prevention Coalition USA (EPC-USA), the American branch of a Canada-based organization.

**Responses to HALO’s “Red Flags”**

HALO’s alert essentially makes “guilt by association” claims: Some organizations with bad policies support the Palliative Care and Hospice Education and Training Act (PCHETA), so the Act must be bad. That doesn’t necessarily follow; but in any case, there are factual problems with the claims.

**“Red Flag”**: “The National Hospice and Palliative Care Organization (NHPCO), the leading trade organization for this industry, is the actual legal and corporate successor to the Euthanasia Society of America.”

**Response:** This claim is based on a rather tortured time line claiming that through some very tenuous connections, the Euthanasia Society (which ceased to exist under that name in 1975) was reincarnated as the Last Acts campaign under the honorary chairmanship of former First Lady Rosalyn Carter, which sought to improve end-of-life care from 1995 to 2005. Last Acts was funded by the Robert Wood Johnson Foundation, had former First Lady Rosalyn Carter as its honorary chair, and was supported by about a thousand health care and community organizations.

Among other things, in 2002 Last Acts issued a scorecard rating the 50 states on how well they were doing in advancing optimum end-of-life care. Despite euthanasia advocates’ claims that legalization of assisted suicide in Oregon in 1997 had made that state a national leader in end-of-life care, Last Acts rated it as “average or below” on most parameters (with the lowest possible grade of “E” on palliative care programs in hospitals, and a “D” on hospice programs in hospitals and medical length of stay in hospice). The work of Last Acts did not advance the agenda of the euthanasia movement.

HALO then claims that the successor to Last Acts is the National Hospice and Palliative Care Organization (which therefore owes its existence, by way of Last Acts, to the Euthanasia Society). But NHPCO was founded (as the National Hospice Organization) in 1978, changing its name in 2000 – and under neither name has it ever supported physician-assisted suicide. The current NHPCO position statement, adopted in 2018, refers to assisted suicide as “legally accelerated death” (LAD) and declares that “as palliative care ‘intends to neither hasten nor postpone death,’ LAD is not a palliative intervention. In light of the underuse of hospice and palliative care to alleviate suffering, lack of comprehensive health care for persons with serious illness, lack of research about the outcomes of LAD, concerns of disability rights advocates regarding protections from coercion, longstanding racial bias in medicine, disparities in health and medical care, and lack of protections to ensure voluntary participation, NHPCO opposes LAD as a societal option.”[[2]](#footnote-2) **So like many other organizations, NHPCO *opposes* physician-assisted suicide and *supports* PCHETA**.

**“Red Flag”**: “The PCHETA is enthusiastically supported by Compassion & Choices, the group leading the campaign to legalize physician-assisted suicide throughout the U.S.”

**Response**: This enthusiasm is well hidden. A search of the internet, and of the web site of “Compassion & Choices” itself, could find no alert or position statement supporting PCHETA that is less than three years old. Once the bill incorporated the policy of the Assisted Suicide Funding Restriction Act in 2017, C&C’s public support seems to have evaporated.

**Point-by-point response to the EPC-USA “Talking Points” against PCHETA**

**EPC-USA claim**: “The bill would extend palliative care *provided by hospice* to non-dying patients, federally fund medical education for this purpose and fund the ’selling’ of palliative care to the public” (emphasis added).

**Response**: This misunderstands the terms “palliative care” and “hospice” as well as the legislation. PCHETA does not change the federal government’s definition of hospice care, found in Sec. 1861 of the Social Security Act (42 USC §1395x). “Hospice care” means a specific set of items and services “provided to a terminally ill individual” (Subsec. (dd)(1)); and an individual is considered to be “terminally ill” if “the individual has a medical prognosis that the individual’s life expectancy is 6 months or less” (Subsec. (dd)(3)(A)).

EPC-USA points out that Medicare has spent billions of dollars on hospice care for patients who lived longer than the expected six months. This is not necessarily an indication of Medicare fraud, as two other factors are at work here. First, as pro-life advocates have long pointed out, prognoses for death in a certain number of weeks or months are notoriously unreliable, and that is one reason why it is completely irresponsible to make people eligible for assisted suicide based on such prognoses. Second, studies have shown that when patients receive optimum care for the pain, anxiety and other distressing symptoms that fatigue them and can shorten life, such care can extend their lives.

The term “palliative care” has a broader scope than the term “hospice,” because pain and other distressing symptoms can afflict patients with any stage of any serious illness. So, to say that patients need palliative care has nothing to do with giving up on their survival or their full recovery, much less with seeking to hasten their death. PCHETA reflects exactly this understanding, when it states that palliative care services “may be provided starting at the point of diagnosis and alongside curative treatment” to “anticipate, prevent, and treat physical, emotional, social, and spiritual suffering” and “optimize quality of life” (Sec. 4).

PCHETA is primarily aimed at promoting palliative care when and where needed, not only to the terminally ill or in hospice. In its text, the term “palliative care” occurs almost twice as often as the term “hospice.” The Act supports training in “interprofessional team-based palliative care in appropriate health settings, *including* hospitals, hospices, home care, long-term care facilities, and ambulatory care centers” (Sec. 2, emphasis added). Nurses will be trained in “providing interprofessional team-based palliative care in health-related educational, hospital, hospice, home, or long-term care settings” (Sec. 3).

**EPC-USA claim**: “Hospice, a palliative care program, is plagued by fraud, poor quality care leading to serious harm and deaths, while wasting hundreds of millions to billions of federal dollars.”

**Response:** Overall, hospice care has been found to lower health care costs by reducing emergency room visits and intensive care services that may not be appropriate for patients close to their natural death. It also seems odd that a pro-life organization would complain of “wasting” money because many hospice patients survive beyond their original prognosis. In any case, the solution to the problems that do exist should be to promote better and more responsible palliative and hospice care as PCHETA intends, not to eliminate palliative care and abandon suffering patients to the promoters of assisted suicide.

**EPC-USA claim:** “The PCHETA bill extends eligibility for palliative care beyond hospice to those with a ‘serious or life-threatening illness’, leaving the definition to federal bureaucrats and palliative care insiders after enactment (Bill Section 904(c)(3)).”

**Response:** As explained above, palliative care has long been recognized as having a broader scope than hospice. Patients with serious chronic illnesses (both curable and incurable) and disabilities also have a need for alleviation of pain, depression, hopelessness and other symptoms (and they are also targets of the assisted suicide movement). The alternative to letting palliative care be taught by “palliative care insiders” is letting it be taught by people ignorant of the field.

**EPC-USA claim**: “Palliative care is often a dangerous self-fulfilling pathway to hospice and death for people not otherwise dying who could have years to live.”

**Response**: Again, palliative care has nothing to do with labeling people as “terminal” or as necessarily eligible for hospice; palliative care does not include treatment primarily aimed at a cure, but (as the Act clearly states) it can be provided along with curative treatment. As explained below, under this Act palliative care also may **not** have anything to do with helping to cause patients’ deaths for any reason.

**EPC-USA claim: “**The bill moves the determination and control of medical ethics to federal bureaucrats and provides no conscience protections.”

**Response:** This charge is odd. PCHETA says nothing about government control of medical ethics, *except* for its twice-repeated insistence that its programs cannot be used to help cause patients’ deaths. Does EPC-USA want a “conscience clause” for doctors who *do* want to train other doctors in causing patients’ deaths?

**EPC-USA claim: “**The bill’s ban (Section 5) on using the Act’s funds for education about and promotion of assisted suicide, euthanasia and mercy killing (42 USC 14401, et al.) and added language in the Senate bill will not stop the abuse and hastened deaths of people enrolled in hospice and palliative care.”

**Response:** EPC-USA says it is concerned here about a lack of full public accountability from the Center for Medicare Services when hospices fall below the standard of care. But PCHETA, as its title indicates, is centered on training and education for health professionals who can provide better palliative care in the future, not on regulating existing hospices. As a grant program it will be enforced as any HHS grant program is, by denial of federal funds (and a demand for reimbursement of funds) when it is notified that a program has violated its requirements.

The requirements of Section 5 merit a closer look.

First, none of PCHETA’s funds “may be used to provide, promote, or provide training with regard to any item or service for which Federal funding is unavailable under section 3 of Public Law 105–12 (42 U.S.C. 14402).” That law is the Assisted Suicide Funding Restriction Act, enacted in 1997 with strong support from pro-life organizations. It forbids use of federal health care funds “(1) to provide any health care item or service furnished for the purpose of causing, or for the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing; (2) to pay (directly, through payment of Federal financial participation or other matching payment, or otherwise) for such an item or service, including payment of expenses relating to such an item or service; or (3) to pay (in whole or in part) for health benefit coverage that includes any coverage of such an item or service or of any expenses relating to such an item or service.” This provision also forbids use of federal funds for an “item, good, benefit or service” to alleviate pain and discomfort if it is “also furnished for the purpose of causing, or the purpose of assisting in causing, death, for any reason.” Such misuse of pain medication to cause death has been a major concern of organizations like EPC-USA. Here such misuse, and any training in it, is explicitly forbidden.

Second, to prevent any misunderstanding on this point, PCHETA has its own distinct clarification: “As used in this Act (or an amendment made by this Act), palliative care and hospice shall not be furnished for the purpose of causing, or the purpose of assisting in causing, a patient’s death, for any reason.”

EPC-USA does not explain how these prohibitions are unclear or ineffective. It has had ample opportunity to do so, since PCHETA itself has been pending in Congress since at least 2014, and the Assisted Suicide Funding Restriction Act referenced by PCHETA has been in law for 22 years. We can only wonder whether EPC-USA now thinks the entire fields of palliative care and hospice care are so inherently corrupt that they should be opposed outright – even in the form of a federal program clearly aimed at *improving* such care and *preventing* its abuse.

August 29, 2019

1. See joint letter of USCCB and CHA at <https://www.chausa.org/docs/default-source/advocacy/071919-joint-usccb-cha-letter-of-support-for-pcheta.pdf>. [↑](#footnote-ref-1)
2. See <https://www.nhpco.org/wp-content/uploads/2019/07/Legally_Accelerated_Death_Position_Statement.pdf>. [↑](#footnote-ref-2)